

Amendment and Response

Applicant: Rory A. Heim et al.

Serial No.: 09/851,765

Filed: May 9, 2001

Docket No.: 10006454-1

Title: METHOD AND APPARATUS FOR COMPENSATING FOR INK CONTAINER EXTRACTION CHARACTERISTICS

REMARKS

This Amendment is responsive to the Non-Final Office Action mailed March 13, 2003. Claims 3 and 16-21 have been allowed. Claims 1, 2, and 4-12 were rejected. Claims 13-15 have been objected to. Claims 1-21 remain pending in the application and are presented for reconsideration and allowance.

Double Patenting Rejection

The Examiner rejected claims 1, 2, and 4-12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,454,381 (Olsen et al.). The Examiner finds that even though Olsen et al. does not disclose an extraction control device for determining ink extracted from the ink container, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to provide a controller (e.g., microprocessor) for the purpose of reading and executing print mode control information contained in the information storage device of Olsen et al.

With this response, a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) is submitted to overcome the obviousness type double patenting rejection of claims 1, 2, and 4-12. Accordingly, claims 1, 2, and 4-12 are now in condition for allowance and notice to that effect is respectfully requested.

Allowable Subject Matter

The Examiner objected to claims 13-15 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 13-15 depend from independent claim 9, which is now in allowable condition with the filing of the terminal disclaimer. Accordingly, withdrawal of the rejection and allowance of claims 13-15 is respectfully requested.

The Examiner's allowance of claims 3 and 16-21 is respectfully acknowledged.

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In light of the above, Applicant believes independent claims 1, 3, 9, and 16 and the claims depending therefrom, are in condition for allowance. Allowance of these claims is respectfully requested.

CONCLUSION

Any inquiry regarding this Amendment and Response should be directed to either Matthew B. McNutt at Telephone No. (512) 231-0531, Facsimile No. (512) 231-0540, or Kevin B. Sullivan at Telephone No. (858) 655-5228, Facsimile No. (858) 655-5859. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Commissioner for Patents, PO Box 1450, Alexandria, VA 23113-1450 on this 28th day of May, 2003.

By Matthew B. McNutt
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